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U.S. DISTRICT COURT E.D.N.Y.
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
NOV 1 2011

BETTY MCPHATTER

BROOKLYN OFFICE

Civil Action No.:

Plaintiff,

-against-

JEC GROUP,

CV 11-5308
COMPLAINT

5308

DEMAND FOR JURY TRIAL

Defendant(s).

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Plaintiff BETTY MCPHATTER ("Plaintiff"), by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant JEC GROUP hereinafter referred to as "Defendant(s)", respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff BETTY MCPHATTER is a resident of the State of New York, residing at 470 Ocean Ave., Brooklyn, N.Y. 11226.

3. Defendant JEC GROUP is a corporation with a business address at 3840 East Robinson Rd., Suite 248, Amherst, NY 14228.

4. JEC GROUP is a "debt collector" as the phrase is defined and used in the FDCPA under 15 USC §1692a (6) and under the NYC Administrative Code Title 20 §489.

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, Defendant, on behalf of a third-party, began collecting an alleged consumer debt.

9. The Defendant left numerous messages at the Plaintiff's place of employment beginning in early December 2010 on Plaintiff's workplace number, 212.243.5060.

10. The Defendant's messages violated 15 USC §1692e (11) by failing to disclose they were debt collectors when messages were left for Plaintiff with the secretary at Plaintiff's place of employment.

11. The Defendant's messages violated 15 USC § 1692c(a)(1) which prohibits calling at any unusual time or place known to be inconvenient to the consumer and 15 USC § 1692c(a)(3) which prohibits calling a place of employment if the debt collector knows or has reason to know that the employer prohibits the consumer from receiving the calls. Plaintiff's manager, Mr. Hill, told her to tell the Defendant to stop calling. Plaintiff asked the Defendant to stop calling her workplace. The Defendant continued to call and leave messages at the Plaintiff's place of employment after Plaintiff asked

them not to call her at work.

12. The Defendant further violated 15 USC § 1692e- preface and e(3) by deceptively stating to the Plaintiff when she called in that they were JEC Law Firm and that the debt collector she was talking to claimed he was Attorney Anderson. In fact, the Defendant is not a law firm and there is no Attorney Anderson working for them.

13. The Defendant further violated 15 USC § 1692e (14) by using a company name other than the true name of the debt collector's business when identifying themselves as JEC Law Firm.

14. The Defendant further violated 15 USC § 1692e (11) by failing to identify themselves as debt collectors when the Plaintiff called in on Jan 20th, 2011 and spoke to the Defendant.

15. The Defendant further violated 15 USC § 1692e- preface and e(10) by using a deceptive, false and misleading representation when Attorney M. Harvey Rephen called in to speak to the Defendant and was first told by the receptionist that they had a legal department upstairs and that she had heard of Attorney Anderson but didn't think he worked there anymore, and was then told by a supervisor during that same conversation that they had no legal department and no attorneys working for them.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

16. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "15" herein with the same force and effect as if the same were set forth at length herein.

17. Defendant's debt collection efforts attempted and/or directed towards the

Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC §1692e (14), 15 USC §1692c (a) (1), 15 USC §1692c (a) (3), 15 USC § 1692e- preface, e (3), and e (11).

18. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

19. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff BETTY MCPHATTER demands judgment from the Defendants JEC GROUP as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k (a) (1);
- B. For statutory damages provided and pursuant to 15 USC §1692k (2)
(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k (2)
(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k (a) (3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
September 23, 2011

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
M. HARVEY REPHEN & ASSOCIATES, P.C.
708 Third Avenue, 6th Floor
New York, New York 10017
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Attorney for the Plaintiff BETTY MCPHATTER

To: JEC GROUP
3840 East Robinson Rd., Suite 248
Amherst, NY 14228

(Via Prescribed Service)
Clerk,
United States District Court, Eastern of New York
(For Filing Purposes)

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